IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION Nos.29941 & 29950 of 1998

Between:

G.Srinivasulu S/o G.Laxmanna,
Aged 36 years, R/o Anantpur District.

..... PETITIONER

AND

1 District Judge Anantpur,
Anantpur District
2 High Court of Andhra Pradesh, rep. by its Registrar (Administration)
High Court Building, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ, direction or directions, and to quash the Proceedings of the 2nd Respondent in Roc.No.46/97 C-II/1, dt. 6/03/1998, confirming the Order of the 1st Respondent in Dis.No.3835 dt. 4/07/1996.

WRIT PETITION NO : 29950 of 1998

Between:

N.Madhusudhan Varma,
S/o.N.A.Varma Raju, Aged 42 years
R/o Anantpur District.

..... PETITIONER

AND

1 District Judge Anantapur
Anantapur District.

2 High Court of A.P. rep. by its Registrar (Administration)
High Court Buildings Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari or any other appropriate writ,direction or directions, and to quash the Proceedings of the 2nd respondent in Roc.No.46/97 C-II/1, dt.6-3-1998, confirming the Order of the 1st respondent in Dis.No.3835, dt.4-7-1996, and pass such other order or orders.

Counsel for the Petitioners in both WPs : Sri V.SRINIVAS

Counsel for the Respondents in both WPs: Smt. M.Bhaskara Lakshmi

(S.C. FOR APHC)

The Court made the following :

COMMON ORDER: (Per Hon'ble the Chief Justice)

These two writ petitions have been filed – one by G.Srinivasulu, who was working as Amin in the Court of District Munsif, Rayadurg, Ananthapur district, and the other by N.Madhusudan Varma, who was working as Junior Assistant in the same court – questioning the orders passed by the respondents in imposing the punishment of

withholding of two increments with cumulative effect for the charges levelled against them, and also the orders of dismissal of their appeals by the High Court of Andhra Pradesh on the administrative side.

Punishment of stoppage of two annual increments with cumulative effect is confirmed by the second respondent on

06th March, 1998. Departmental enquiry was initiated against both petitioners in which the Munsif Magistrate, Kalyandurg, was appointed as Enquiry Officer. Complainant did not appear before the Enquiry Officer. The Enquiry Officer submitted his findings before the then District Judge, Anantapur. The Enquiry Officer in his findings held both the petitioners not guilty, holding that the complainant, who was decree-holder, himself was responsible for the delay caused. The disciplinary authority did not agree with the findings of the Enquiry Officer and issued show cause notice dated 18th May, 1996 proposing punishment of stoppage of two increments with cumulative effect, and after receipt of the explanation from the petitioners, proceeded to pass final orders imposing the punishment. Admittedly, the disciplinary authority along with show cause notice dated 18th May, 1996 did not send copy of its report recording reasons for not agreeing with the findings recorded by the Enquiry officer. Petitioners were thus deprived of the reasons which weighed with the disciplinary authority in coming to the conclusion that they were guilty of misconduct of causing delay in execution of decree, for which the Enquiry Officer had already held that the complainant himself was responsible, and not the petitioners. In the affidavit in reply filed by the District Judge, Anantapur, it is admitted that petitioners were not supplied with copy of enquiry report along with show cause notice and the reason assigned was that as the disciplinary authority differed with the opinion of the Enquiry Officer and the proposed punishment was not based upon the Enquiry Officer's report, it was not considered necessary to furnish

copy of the report of the disciplinary authority.

We have gone through the record. At the stage of issuance of show cause notice, the disciplinary authority simply said that it was not in agreement with the report of the Enquiry Officer and the disciplinary authority proposed punishment and issued show cause notice, but did not record its reasons. It was only after the petitioners had submitted their reply to show cause notice that the disciplinary authority in the final order has recorded its reasons in support of the view of differing with the Enquiry Officer's report. This procedure not only is unwarranted in law but also caused prejudice to the petitioners, and is not in consonance with the principles of natural justice, for which reason alone, the writ petitions must be allowed and the impugned orders must be set aside.

Writ Petitions are accordingly allowed and impugned orders imposing punishment on petitioners are set aside.

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DEVINDER GUPTA, C.J.

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M.NARAYANA REDDY, J

02-02-2005

bsc

That Rule nisi has been made absolute as above.

Wednesday, the Second Day of February Two Thousand and Five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 District Judge, Anantapur,
Anantapur District
2 The Registrar (Administration)
High Court of Andhra Pradesh,
High Court Building, Hyderabad.

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